

LABOUR AND EMPLOYMENT DEPARTMENT

CORRIGENDUM

The 26th May, 1973

No. 4743-5Lab-73/26591.—In Haryana Government notification No. 1027-ASO(L)-70-3388, dated the 11th February, 1971, in Para No. I after the word "Establishment" the words "situated in Haryana State" may be substituted in place of the words "Under the control of the Haryana Government".

S. N. BHANOT, Secy.

LABOUR DEPARTMENT

The 23rd May, 1973

No. 5292-4Lab-73/20478.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and management of M/s New Chenab Co-operative Transport Society, Ambala City.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 43 of 1971

between

SHRI DARSHAN LAL AND THE MANAGEMENT OF M/S NEW CHENAB CO-OPERATIVE
TRANSPORT SOCIETY, AMBALA CITY

Present :—

Shri Madhusudan Saran Kaushish, for the workman.

Shri D. S. Rekhi for the management.

AWARD

Shri Darshan Lal was in the service of M/s New Chenab Co-operative Transport Society, Ambala City, as a Conductor. The management dismissed him from service with effect from 4th January, 1969. He raised a demand for his reinstatement with continuity of previous service and full back wages alleging that the impugned order of his dismissal from service had been made without any justification. The management did not accept his demand. This gave rise to an industrial dispute. The matter was taken up for conciliation but without any success.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this court,—*vide* order No. 14021-25, dated 15th May, 1969, with the following term of reference :—

"Whether the dismissal of Shri Darshan Lal, Conductor was justified and in order ? If not, to what relief is he entitled ?"

Usual notices were given to the parties. The management took the plea that as a matter of fact this workman was guilty of mis conduct in the discharge of his duties for which he was charge-sheeted and the order of his dismissal from service was made after holding proper inquiry. Shri Darshan Lal workman concerned controverted the above allegation and reiterated his claim for reinstatement and back wages as earlier raised through the demand notice, dated 3rd February, 1969, leading to the present reference.

The issue that arose for determination in the case was precisely the same as per the term of reference stated above. Subsequently, however, another plea was raised on behalf of the management that a settlement had been arrived at between the parties, whereby the dismissal from service of the present workman was converted into retrenchment and therefore, no industrial dispute survived between the parties. My learned predecessor framed the following issue :

"Whether a compromise has been arrived at between the parties and now there is no industrial dispute ?"

The management has examined two witnesses, M.W.1 Shri D. S. Rekhi has deposed that he held the inquiry against the present workman as per the inquiry report Exhibit M.W. 1/1, M.W. 2 Shri Sohan Singh, Secretary

of the respondent Society has proved the certificates Exhibit M. 1 and M. 2 given by the management to the workman concerned. He has expressed his ignorance about the so-called domestic inquiry held against him. Shri Darshan Lal concerned workman has made his own statement without examining any other witness.

The management has filed written argument. Arguments of the authorised representative of the workman have also been heard and I have given a considered thought to the material on record.

The first and the foremost question that arises for determination in the case is whether the dismissal from service of Shri Darshan Lal concerned workman was justified and in order. As pointed out above, the stand earlier taken by the management was that the impugned action of dismissal from service had been taken against him after holding a proper domestic inquiry. Subsequently, however, it was pleaded that by compromise between the parties the dismissal from service was converted into retrenchment. No memorandum of settlement or agreement has been brought on record to establish the above plea raised on behalf of the management. It appears that after the respondent Society had closed its business as a result of the nationalisation of the Road Transport by the State Government, the present workman gave up his hope of being taken back on duty by the management and tried for some alternative job in the Haryana Roadways. He required some certificates of his previous service and good conduct which were issued by the management and are on record as Exhibit M. 1 and M. 2. In the certificate Exhibit M. 3 it has been mentioned that the management had retrenched the services of this workman which was nowhere the case of either party nor has any letter of retrenchment or relevant record been produced to show that any such agreement had, in fact, been arrived at between the parties. It has further been pleaded on behalf of the management that after the said agreement Shri Darshan Lal had received his dues but no receipt or voucher has been produced to substantiate this plea. The statement of the witnesses examined on behalf of the management are quite silent on the point.

It, therefore, follows that no settlement had, in fact, been arrived at between the management and the present workman to convert the order of dismissal from service into one of retrenchment. The Inquiry Officer M. W. 1 has made a very brief statement that he had held the inquiry Exhibit M.W. 1/1 but from his statement it is not clear that Shri Darshan Lal workman concerned had been given reasonable opportunity to defend himself in the said inquiry. Moreover, the management no longer relies upon the so-called inquiry as would be clear from the written arguments filed in the case. It will not be out of place to mention here that the management had given a certificate of good conduct to this workman which is Exhibit M. 2 on record. A perusal of this certificate would show that the management was satisfied with his work and there was no complaint against him.

So taking into consideration all the facts and the circumstances of the case as discussed above, both the issues the one as per the term of reference and the other arising out of the plea of settlement raised on behalf of the management are decided against the management and in favour of the workman, holding that his impugned dismissal from service was not justified and in order nor it had been converted into retrenchment.

The question which next arises for consideration in the case is as to what relief is the present workman entitled to in view of the above findings on the issues involved in the case. It is common ground between the parties that as a result of the nationalisation of the road transport by the Government, the respondent Society has completely closed its business. The question of the reinstatement of Shri Darshan Lal by the management, therefore, does not arise. Moreover, he has admittedly joined service with the Haryana Roadways with effect from 18th November, 1971. There is nothing on the record to show that he had been gainfully employed anywhere else during the intervening period from the date of his dismissal from service on 4th January, 1969 and the date of his joining duty with the Haryana Roadways on 18th November, 1971. His dismissal from service having been brought about by the respondent without any justification, he is entitled to his full wages for the intervening period. No reasonable ground has been made out on behalf of the management to deprive him of his right full wages for this period. The award is made accordingly and the management is directed to pay to Shri Darshan Lal his wages for the intervening period from 4th January, 1969, to 18th November, 1969. In the circumstances, there shall be no order as to costs.

Dated the 15th May, 1973.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana.
Rohtak.

No. 1200 dated 18th May, 1973

Forwarded (four copies) to Secretary to Government of Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.